

October 20, 2011

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Written ex parte presentation, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51*

Dear Ms. Dortch:

One week from today, the Commission is slated to vote on an order comprehensively reforming the universal service and intercarrier compensation systems. As I have said in all of our recent meetings on this subject, CTIA is eager to see the Commission vote next week on comprehensive universal service and intercarrier compensation reform. Given the profound importance of this reform to the American people, CTIA urges the Commission to take this historic opportunity to set a clear and thorough roadmap for the new Connect America Fund (“CAF”), Mobility Fund, and intercarrier compensation system. And that roadmap should mark a prominent path for mobile wireless broadband, which has enormous potential to unleash economic development, educational enrichment, medical advancement, and public safety improvement. For that reason, CTIA has filed considerable evidence in this record on the need for a robust Mobility Fund,¹ and is compelled to respond to a Wireline Competition Bureau staff analysis that was filed in the universal service docket last night. CTIA is concerned about any potential uses of this study. For the reasons discussed below, this analysis sheds no light on, and should play no role in, the Commission’s determination of the amount of support that will be needed to ensure ubiquitous mobile broadband or voice service in rural areas.

Yesterday, the Wireline Competition Bureau filed a submission for the record including a “Summary of Staff Analysis of Areas Where Mobile Service Is Available Only From a Small or Regional Provider Receiving High-Cost Support.”² While outside parties have had very little time to review the study before scheduled issuance of the Sunshine prohibition period, even a quick review reveals significant concerns.³

¹ Letter from Steve Largent, CTIA, to Julius Genachowski, FCC (WC Docket Nos. 10-90 *et al.* (filed Oct. 18, 2011); Letter from S. Bergmann, CTIA, to Marlene Dortch, FCC, WC Docket Nos. 10-90 *et al.* (filed Sept. 29, 2011); Letter from C. Guttman-McCabe and S. Bergmann, CTIA, to M. Dortch, FCC, WC Docket Nos. 10-90 *et al.* (filed Sept. 22, 2011), attaching CostQuest Associates, U.S. Ubiquitous Mobility Study (Sept. 21, 2011) (“U.S. Ubiquitous Mobility Study”).

² Letter from Jennifer Prime, FCC, to Marlene Dortch, FCC (WC Docket Nos. 10-90 *et al.* (filed Oct. 19, 2011) at 4-6 (App. II) (“Staff Analysis”).

³ Given the limited time to review the staff analysis, CTIA has not attempt here to offer detailed comments on its methodology. CTIA notes that the study itself concedes the use of unreliable data and suspects that there are other issues of methodological concern. As explained in this letter, however,

Indeed, the Commission should be aware that this study has no bearing on the calculation of the amount of support that would be sufficient to ensure the universal availability of mobile broadband. As described below, the Bureau study's conclusion about the amount of support currently flowing to such areas (a fraction of the current amount of support available to CETCs, according to the staff analysis) is irrelevant to the Commission's task of appropriately sizing mobile broadband support. Indeed, this study does not even show the amount of support needed to ensure the continuation of current availability of mobile voice service.

First, as this Commission has itself found, there is no tight connection between current support amounts and the amount of support that would be necessary to ensure the deployment of broadband going forward. That is one of the fundamental reasons that reform is necessary.⁴ As a result, even if the staff study's other assumptions were correct, its conclusions – rooted as they are in support amounts under the current system – have no relevance to America's broadband needs.

Second, significantly, it entirely ignores areas where *no* service currently is available. This is a critical part of the broadband deployment challenge and one that the Mobility Fund will be called on to address. This represents a significant omission in the attempt to size a forward-looking Mobility Fund. Unlike the Bureau's analysis, CTIA's recent submission of a study by CostQuest provides an actual analysis of where wireless broadband is not available and what resources will be required to provide mobile broadband in those areas.⁵

Third, the Bureau's analysis also incorrectly excludes areas that are served by large wireless providers. Support may be necessary to ensure wireless service even if the area is served by a large wireless carrier. Large wireless carriers, like small ones, have deployed wireless service in some rural and high-cost areas in reliance on existing subsidy flows. Not all of the four largest wireless carriers are subject to merger conditions requiring the phase-down of legacy high-cost support, and such conditions apply in any event only to legacy support, not CAF support for mobile broadband. The Commission has found that price-cap incumbent local exchange carriers ("ILECs") cannot be expected to average their costs over low-cost and high-cost areas, because this expectation in the current mechanism has created the "rural-rural divide."⁶ Certainly wireless carriers, subject to even stiffer competition, are similarly constrained. Despite all these facts, the Staff Study excluded areas served by the four largest wireless carriers.

even assuming the accuracy of its methodology, the findings of the study shed no light on the critical policy questions regarding support for mobile voice and broadband services.

⁴ *Connect America Fund, et al.*, WC Docket Nos. 10-90 *et al.*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554, 4559 ¶ 6 (2011) ("*Comprehensive Reform NPRM*").

⁵ U.S. Ubiquitous Mobility Study, *supra* note 1.

⁶ *Comprehensive Reform NPRM*, 26 FCC Rcd at 4559 ¶ 6 (2011).

In addition, the existence of multiple wireless competitive eligible telecommunications carriers (“CETCs”) in an area today does not answer the question of whether support would be needed to preserve service in that area or to extend mobile broadband to that area in the absence of support. That is to say, even if the Commission determines that only one provider should be eligible to receive funding in a given area, support may be necessary to extend broadband to the area. Many of these areas are indeed very low-density, high-cost areas that would be economically impossible to serve without support.

For these reasons, the Commission should not consider this study in its analysis of the critical question of the sizing of the Mobility Fund. Similarly, the Bureau study does not even accurately portray the amount of support that would be needed to ensure the continued availability of mobile voice service in rural America. Moreover, a study that has not been evaluated for its reliability and one that also concedes numerous, fundamental flaws in methodology would preclude any effort to place reliance on its conclusions. Indeed, a study that catalogues numerous errors, including that the “methodology may overestimate or underestimate the amount of support”; that includes support for entire Study Areas in instances where “actual support amounts could not be identified at a further disaggregated level, which would tend to overstate the amount of support”; that the coverage maps relied on “likely overstate[] the coverage actually experienced by consumers”; that “there may be areas reported . . . as served by a nationwide provider or an unsubsidized wireless provider that may not in fact be covered by those providers”; that “there may be areas reported . . . as served by a small or regional competitive ETC where that provider does not actually provide service”; and that the geographic boundaries used “may not be accurate,” creating “bias in the results” should not be used as the basis for the Commission’s reasoned decision-making.

As highlighted above, for more useful information about the cost of deploying mobile broadband service, the Commission may refer to the CostQuest study commissioned by CTIA. This study estimates the initial deployment cost of extending wireless broadband to unserved areas throughout the country at between \$7.8 - \$21 billion.⁷ The Commission can also look to the forward-looking direction provided by the Obama Administration’s economic and technology agenda, which recognizes the evolution that has occurred in technology and the marketplace and called for the federal government to make a \$5 billion investment to ensure that Americans have access to 4G wireless services.

CTIA recognizes that many of the decisions facing the Commission in universal service and intercarrier compensation reform are difficult ones. Yet history has shown that these decisions become more difficult, not easier, with time. CTIA is eager to see the Commission complete reform of these programs next week. This historic opportunity is unlikely to repeat itself in the near future. It is therefore

⁷ U.S. Ubiquitous Mobility Study, *supra* note 1. See also U.S. Cellular USF Mobility Model Report (filed Aug. 6, 2011); MTPCS USF Model Output (filed Aug. 25, 2011).

imperative that this month's order make all of the pivotal decisions necessary to move forward with the implementation of reform that sets a forward-looking path to ubiquitous mobile broadband. As it does so, the Bureau study should have no role in its decision-making on the need for a robust Mobility Fund.

Sincerely,

A handwritten signature in black ink that reads "Steve Largent". The signature is written in a cursive, flowing style.

Steve Largent

cc: Hon. Julius Genachowski
Hon. Michael Copps
Hon. Robert McDowell
Hon. Mignon Clyburn
Zachary Katz
Christine Kurth
Angela Kronenberg
Margaret McCarthy
Sharon Gillet
Rick Kaplan
Carol Matthey
Rebekah Goodheart
Amy Bender
Jane Jackson
Margaret Wiener